

The Gazette of India

EXTRAORDINARY PART II—Section 2 PUBLISHED BY AUTHORITY

No. 19] NEW DELHI, WEDNESDAY, APRIL 22, 1964/VAISAKHA 2, 1886

Separate paging is given to this Part in order that it may be filed
as a separate compilation

LOK SABHA

The following Bill was introduced in Lok Sabha on the 22nd
April, 1964:—

BILL No. 32 OF 1964

A Bill further to amend the Wakf Act, 1954

Be it enacted by Parliament in the Fifteenth Year of the Republic
of India as follows:—

1. This Act may be called the Wakf (Amendment) Act, 1964.

Short title.

29 of 1954.

2. In section 3 of the Wakf Act, 1954 (hereinafter referred to as the
5 principal Act),—

Amend-
ment of
section 3.

(i) in clause (a), for the words “established for the benefit of
the Muslim community”, the words “sanctioned by the Muslim
law” shall be substituted;

10 (ii) in clause (c), for the word and figure “section 9”, the
words, brackets, figures and letter “sub-section (1), or as the case
may be, under sub-section (1A) of section 9” shall be substituted;

(iii) after clause (d), the following clause shall be inserted,
namely:—

15 ‘(dd) “Council” means the Central Wakf Council estab-
lished under section 8A;’

(iv) in clause (i), after the word “prescribed”, where that
word occurs for the first time, the words, figures and letter
“, except in Chapter IIA,” shall be inserted;

20 (v) in clause (l), for sub-clause (ii), the following sub-
clause shall be substituted, namely:—

"(ii) grants (including mashrut-ul-khidmat) for any purpose recognised by the Muslim law as pious, religious or charitable; and".

Amend-
ment of
section 7.

3. In sub-section (1) of section 7 of the principal Act, after the words "cost of making a survey", the words "including the cost of publication of the list of wakfs" shall be inserted. 5

Insertion
of new
Chapter
IIA.

4. In the principal Act, after Chapter II, the following Chapter shall be inserted, namely:—

"CHAPTER IIA

CENTRAL WAKF COUNCIL

10

Establish-
ment and
constitu-
tion of the
Central
Wakf
Council.

"8A. (1) For the purpose of advising it, on matters concerning the working of Boards and the due administration of wakfs, the Central Government may, by notification in the Official Gazette, establish a Council to be called the Central Wakf Council. 15

(2) The Council shall consist of a Chairman, who shall be the Union Minister in charge of wakfs, and such other members not exceeding twenty in number, as may be appointed by the Central Government.

(3) The term of office of, the procedure to be followed in the discharge of their functions by, and the manner of filling casual vacancies among, members of the Council shall be such as may be prescribed by rules made by the Central Government. 20

Finances
of the
Council.

8B. (1) Every Board shall pay from its Wakf Fund annually to the Council such contribution as is equivalent to one per cent. of the aggregate of the net annual income of the properties of the wakfs in respect of which contribution is payable under sub-section (1) of section 46: 25

Provided that where the Board in the case of any particular wakf has remitted under sub-section (2) of section 46 the whole of the contribution payable to it under sub-section (1) of that section, then for calculating the contribution payable to the Council under this section, the net annual income of the property of the wakf in respect of which such remission has been granted shall not be taken into account. 30

(2) All monies received by the Council under sub-section (1) and all other monies received by it as donations, benefactions and grants shall form a fund to be called the Central Wakf Fund. 35

(3) Subject to any rules that may be made by the Central Government in this behalf, the Central Wakf Fund shall be 40

under the control of the Council and may be applied for such purposes as the Council may deem fit. Accounts and audit.

5 8C. (1) The Council shall cause to be maintained such books of account and other books in relation to its accounts in such form and in such manner as may be prescribed by rules made by the Central Government.

(2) The accounts of the Council shall be audited and examined annually by such auditor as may be appointed by the Central Government.

10 (3) The costs of the audit shall be paid from the Central Wakf Fund.

8D. (1) The Central Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Chapter. Power of Central Government to make rules.

15 (2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the term of office of, the procedure to be followed in the discharge of their functions by, and the manner of filling casual vacancies among, the members of the Council;

20 (b) control over and application of the Central Wakf Fund;

(c) the form and manner in which accounts of the Council may be maintained.

25 (3) Every rule made by the Central Government under this Chapter shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days, which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.”

5. In section 9 of the principal Act,—

(a) after sub-section (1), the following sub-section shall be inserted, namely:— Amendment of section 9.

40 “(1A) Notwithstanding anything contained in sub-section (1), if the Shia wakfs in any State constitute in number more than fifteen per cent. of all the wakfs in the State or if the income of the properties of the Shia wakfs

in the State constitutes more than fifteen per cent. of the total income of the properties of all the wakfs in the State, the State Government may, by notification in the Official Gazette, establish a Board of Wakfs each for Sunni Wakfs and for Shia Wakfs under such names as may be specified in the notification and in such a case, the provisions of this Act shall, in their application to the State, have effect as if the amendments specified in the Schedule had been made.”;

(b) in sub-section (2), for the words “The said Board”, 10 the words “The Board” shall be substituted.

Amend-
ment of
section 11.

6. In section 11 of the principal Act, in clauses (b) and (c), the word “special” shall be omitted.

Amend-
ment of
section 15.

7. In section 15 of the principal Act, in sub-section (2),—

(a) in clause (e), for the portion beginning with the words 15 “in any case” and ending with the words “of being heard”, the following shall be substituted, namely:—

“to direct—

(i) the utilization of the surplus income of a wakf consistently with the objects of the wakf; 20

(ii) in what manner the income of a wakf, the objects of which are not evident from any written instrument, shall be utilized;

(iii) in any case where any object of a wakf has ceased to exist or has become incapable of achievement, 25 that so much of the income of the wakf as was previously applied to that object shall be applied to any other object which shall be similar, or as nearly as practicable similar, to the original object:

Provided that no direction shall be given under this 30 clause without giving the parties affected an opportunity of being heard.”;

(b) for clause (j), the following clause shall be substituted, namely:—

“(j) to sanction in accordance with the Muslim law, any 35 transfer of immovable property of a wakf by way of sale, gift, mortgage, exchange or lease, as required by section 36A:

Provided that no such sanction shall be given unless at least two-thirds of the members of the Board vote in favour 40 of such transaction.”.

8. In section 22 of the principal Act, after the words "servant of the Board", the words "or any committee thereof" shall be inserted. Amendment of section 22.

9. In section 23 of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely:— Amendment of section 23.

5 “(3) The powers conferred on the Secretary by sub-section (2) may also be exercised by such other officer or officers of the Board as may either generally or specially be authorised in this behalf by the Board.”.

10. Section 32 of the principal Act shall be re-numbered as sub-section (2) of that section, and before the sub-section as so re-numbered, the following sub-section shall be inserted, namely:— Amendment of section 32.

 “(1) Every mutawalli shall keep regular accounts.”.

11. After section 36 of the principal Act, the following sections shall be inserted, namely:— Insertion of new sections 36A and 36B.

15 “36A. Notwithstanding anything contained in the wakf deed, no transfer of any immovable property of a wakf by way of— Transfer of immovable property of wakfs.

 (i) sale, gift, mortgage or exchange; or

 (ii) lease for a period exceeding three years in the case of agricultural land, or for a period exceeding one year in the case of non-agricultural land or building,

20 shall be valid without the previous sanction of the Board.

 36B. (1) If the Board is satisfied, after making an inquiry in such manner as may be prescribed, that any immovable property of a wakf entered as such in the register of wakfs maintained under section 26, has been transferred without the previous sanction of the Board in contravention of the provisions of section 36A, it may send a requisition to the Collector within whose jurisdiction the property is situate to obtain and deliver Recovery of wakf property transferred in contravention of section 36A.

30 (2) On receipt of a requisition under sub-section (1), the Collector shall pass an order directing the person in possession of the property to deliver the property to the Board within a period of thirty days from the date of the service of the order.

35 (3) Every order passed under sub-section (2) shall be served—

 (a) by giving or tendering the order or by sending it by post to the person for whom it is intended; or

(b) if such persons cannot be found, by affixing the order on some conspicuous part of his last-known place of abode or business, or by giving or tendering the order to some adult male member or servant of his family or by causing it to be affixed on some conspicuous part of the property to which it relates: 5

Provided that where the person on whom the order is to be served is a minor, service upon his guardian or upon any adult male member or servant of his family shall be deemed to be service upon the minor. 10

(4) Any person aggrieved by the order of the Collector under sub-section (2) may, within a period of thirty days from the date of the service of the order, prefer an appeal to the district court within whose jurisdiction the property is situate and the decision of the district court on such appeal shall be final. 15

Explanation.—In this sub-section, “district court” means, in any area for which there is a city civil court, that court, and, in any other area, the principal civil court of original jurisdiction.

(5) Where an order passed under sub-section (2) has not been complied with and the time for appealing against such order has expired without an appeal having been preferred or the appeal, if any, preferred within that time has been dismissed, the Collector shall obtain possession of the property in respect of which the order has been made, using such force, if any, as may be necessary for the purpose and deliver it to the Board. 25

(6) In exercising his functions under this section, the Collector shall be guided by such rules as may be made in this behalf by the State Government.”.

Amend- 12. Clause (g) of sub-section (1) of section 41 of the principal Act shall be omitted. 30
ment of section 41.

Amend- 13. In section 43 of the principal Act,—
ment of section 43.

(a) in sub-section (1), for clause (b), the following clauses shall be substituted, namely:—

“(b) has been convicted of an offence of criminal breach of trust or any other offence involving moral turpitude; or 35

(c) misappropriates or deals improperly with the properties of the wakf; or

(d) is of unsound mind or is suffering from other mental or physical defect or infirmity which would render him unfit to perform the functions and discharge the duties of a mutawalli;

5 (e) has failed to pay, without reasonable excuse, for two consecutive years, the contribution payable by him under section 46.”;

(b) in sub-section (2), after the words “appointed by the Board”, the words “or any person or authority not being a court
10 of law,” shall be inserted;

(c) after sub-section (4), the following sub-section shall be inserted, namely:—

“(4A) A mutawalli who is aggrieved by an order passed under any of the clauses (c) to (e) of sub-section (1) or
15 under sub-section (2) may, within one month from the date of the receipt by him of the order, appeal against the order to the State Government and the decision of the State Government on such appeal shall be final and shall not be questioned in any court of law.”;

20 (d) after sub-section (5), the following sub-section shall be inserted, namely:—

“(6) A mutawalli of a wakf removed from his office under this section shall not be eligible for appointment as a mutawalli of that wakf for a period of five years from the
25 date of such removal.”.

14. After section 43 of the principal Act, the following section shall be inserted, namely:—

Insertion
of new
section
43A.

30 “43A. (1) Where no suitable person is available for appointment as a mutawalli of a wakf under section 42 or under sub-section (2) of section 43, the Board may, by notification in the Official Gazette, assume direct management of the wakf for such period or periods, not exceeding in the aggregate five years, as may be specified in the notification.

Assump-
tion of
direct
manage-
ment of
certain
wakf by
the Board.

35 (2) Notwithstanding anything contained in section 33, the accounts of every wakf under the direct management of the Board shall be audited annually by an auditor to be appointed by the Board, from among chartered accountants in practice within the meaning of the Chartered Accountants Act, 1949.”.

Amend-
ment of
section 45.

15. In section 45 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) The Board may, either on an application received under section 44 or on its own motion,

(a) hold an inquiry in such manner as may be prescribed; or

(b) authorise any person in this behalf to hold an inquiry,

into any matter relating to a wakf and take such action as it thinks fit.”.

10

Amend-
ment of
section 46.

16. In section 46 of the principal Act, in sub-section (1), for the word “five”, the word “six” shall be substituted.

Amend-
ment of
section 48.

17. In section 48 of the principal Act, for sub-section (1), the following sub-sections shall be substituted, namely:—

“(1) All monies received or realised by the Board under this Act and all other monies received as donations, benefactions or grants by the Board shall form a fund to be called the Wakf Fund.

(1A) All monies received by the Board as donations, benefactions and grants shall be deposited and accounted for under a separate sub-head.”.

Omission
of section
54.

18. Section 54 of the principal Act shall be omitted.

Substitu-
tion of
new sec-
tion for
section 55.

19. For section 55 of the principal Act, the following section shall be substituted, namely:—

Institution
of suits
under
section 92
of the Code
of Civil
Procedure,
1908.

“55. (1) A suit to obtain any of the reliefs mentioned in section 92 of the Code of Civil Procedure, 1908, relating to any wakf may, notwithstanding anything to the contrary contained in that section, be instituted by the Board without obtaining the consent referred to therein. 25 5 of 1908.

(2) No suit to obtain any of the reliefs referred to in section 92 of the Code of Civil Procedure, 1908, relating to any wakf shall be instituted by any person or authority other than the Board without the consent in writing of the Board and for the institution of any such suit, it shall not be necessary to obtain the consent referred to in that section, notwithstanding anything contained therein: 35

Provided that nothing in this sub-section shall apply in relation to any such suit against the Board.”.

20. In section 62 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:— Amendment of section 62.

5 “(1) The Central Government may issue such directions, as it may think fit, on questions of policy to be followed by a Board and for issuing such directions it may call for any periodic or other report or information from any Board through the Government of the State concerned.”

21. After section 66B of the principal Act, the following section shall be inserted, namely:— Insertion of new section 66C.

10 “66C. Notwithstanding anything contained in this Act where any movable or immovable property has been given or donated by any person not professing Islam for the support of a wakf being— Application of Act to properties given or donated by persons not professing Islam for support of certain wakfs.

15 (a) a mosque, idgah, imambara, dargah, khangah or a maqbara;

(b) a Muslim graveyard;

(c) a choultry or a musafarkhana,

then such property shall be deemed to be comprised in that wakf and be dealt with in the same manner as the wakf in which it is so comprised.”

20

22. In section 67 of the principal Act,—

(a) in sub-section (1), for the words “purposes of this Act”, the words, figures and letter “purposes of this Act other than those of Chapter IIA” shall be substituted; Amendment of section 67.

25 (b) in sub-section (2), in clause (h), the words “and approved by the State Government” shall be omitted.

23. In section 69 of the principal Act, in clause (2) of sub-section (1), the words and figure “section 5 of” shall be omitted. Amendment of section 69.

24. After section 69 of the principal Act, the following section and Insertion of new section 70 and Schedule.

30 Schedule shall be inserted, namely:—

“70. If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with

68 G of I Ex—2. Removal of difficulties.

the purposes of this Act, as appear to it to be necessary or expedient for removing the difficulty.

THE SCHEDULE

[See section 9 (1A)]

LIST OF AMENDMENTS

5

1. In sub-section (2) of section 5, for the words "a list of wakfs", the words "a list of Sunni wakfs or, as the case may be, Shia wakfs" shall be substituted.

2. In section 11,—

(a) for clause (b), the following clause shall be substituted, namely:—

"(b) persons having knowledge of Muslim law and representing, in the case of a Sunni Board of Wakfs, associations such as State Jamiat-ul-Ulama-i-Hind (whether such persons are Hanafi, Ahle-Hadis or Shefai) 15 and in the case of a Shia Board of Wakfs, associations such as State Shia Conference;";

(b) the second proviso shall be omitted.

3. In clause (e) of sub-section (2) of section 15, the *Explanation* shall be omitted. 20

4. For section 27, the following section shall be substituted, namely:—

Decision if
a property
is wakf
property.

"27. (1) The Board may itself collect information regarding any property which it has reason to believe to be wakf property and if any question arises whether a particular 25 property is wakf property or not or whether a wakf is a Sunni wakf or a Shia wakf, it shall refer the question to a civil court of competent jurisdiction.

(2) The decision of the civil court on any question referred to it under sub-section (1) shall be final." 30

STATEMENT OF OBJECTS AND REASONS

The Wakf Act, 1954 was enacted to provide for the better administration and supervision of wakfs. The Act was amended in 1959 for the limited purpose of removing certain difficulties arising out of re-organisation of States. Experience of the working of the Act over the last ten years has revealed certain difficulties. It is, therefore, proposed to amend the Act to remove these difficulties and to ensure better administration of wakfs by mutawallis.

2. The main features of the Bill are:

(i) The definition of beneficiary in regard to objects of public utility is being broadened to cover all objects sanctioned by Muslim law. Endowments made by non-Muslims for support of certain Muslim religious and pious institutions will also come under the purview of the Act.

(ii) A Central Wakf Council is proposed to be established.

(iii) A provision is being made to enable the establishment of separate Sunni and Shia Boards in any State in which the Shia wakfs constitute in number more than fifteen per cent. of the total number of wakfs in that State or the income of the property of Shia wakfs constitutes more than fifteen per cent. of the income of all the wakfs in the State.

(iv) To check mutawallis from alienating wakf properties, a specific provision is being made to clarify that alienations without the sanction of the Board will be invalid. As a further step in this direction, it is also being provided that where mutawallis illegally alienate properties already determined as wakf properties, the Board can recover possession by issuing certificates to Collector. A right of appeal to the district court against the order of the Collector is also being provided for.

(v) Authority is being conferred on the Board to remove mutawallis on some additional grounds not mentioned in section 43 and to assume direct management of wakfs for a period not

exceeding five years in cases where no suitable mutawallis are available.

3. The notes on clauses explain in detail the various changes proposed to be made.

NEW DELHI;
The 9th April, 1964.

HUMAYUN KABIR.

Notes on Clauses

Clause 2.—The definition of 'beneficiary' in section 3(a) of the Act involves a deviation from the real concept of beneficiary under the Muslim law which makes no distinction between Muslims and non-Muslims in the matter of beneficiaries or disbursement of charity. It is to that extent inconsistent with the definition of 'wakf' contained in the Act. Sub-clause (i) seeks to amend the definition of 'beneficiary' to remove this inconsistency.

The amendments sought to be made by sub-clauses (ii), (iii) and (iv) are of a consequential and drafting nature.

The definition of wakf in section 3 includes *inter alia* mashrut-ul-khidmat (service grants). The definition is being widened to include all grants.

Clause 3.—At present, the cost of publication of the list of wakfs in the Official Gazette is met by the Board. As the cost is fairly heavy and the publication of the list, besides being really a concluding part of the survey, is meant essentially for the benefit of wakfs, it is only proper that the expenditure incurred on such publication should come from the wakfs themselves. This clause therefore seeks to amend sub-section (1) of section 7 suitably for the purpose.

Clause 4.—Section 62 of the Act confers on the Central Government power to give directions, on questions of policy to be followed by the Boards set up under the Act in various States. Experience has revealed that for the efficient discharge of this power, the Central Government should have proper advice. For this purpose, the establishment of a Central Wakf Council is being provided for in clause 4 (*vide* new section 8A).

As regards the finances of the Council, the clause provides for the formation of a Fund to be called the Central Wakf Fund, consisting of contributions from the Boards of Wakfs in various States and all other monies received by the Council as donations, benefactions or grants (*vide* new section 8B).

Suitable provisions are also incorporated for the audit of the accounts of the Council (*vide* new section 8C).

Clause 5.—The Act does not provide for the establishment of separate Boards for Sunni wakfs and Shia wakfs in any State. It is

felt that in any State in which the number of Shia wakfs is fairly large to justify the establishment of a separate Board for Shia wakfs, this should be allowed. Accordingly, clause 5 seeks to amend section 9 of the Act for providing that a State Government may establish separate Boards for Sunni wakfs and Shia wakfs, if the Shia wakfs in the State constitute in number more than 15 per cent. of the total number of wakfs in the State or if the income of the Shia wakfs in the State constitutes more than 15 per cent. of the total income of all the wakfs in the State. All the consequential amendments have been relegated to the Schedule for the sake of convenience.

Clause 6.—The word 'special' used in clauses (b) and (c) of section 11 is being omitted as unnecessary.

Clause 7.—Under clause (e) of sub-section (2) of section 15, the Board has power to direct in what manner the income or surplus income of a wakf whose objects have ceased to exist should be utilised. This provision is being amplified to cover cases where though the objects of a wakf have not ceased to exist, they have become incapable of achievement.

Under section 15(2) (j), sanction of at least three-fourths of the members of the Board is necessary for any lease of property for more than three years or for any mortgage or exchange of property. The clause is being amended to reduce the proportion of number of members whose concurrence is necessary from three-fourths to two-thirds. The other changes made in the clause are consequential to the insertion of proposed section 36A (see notes on clause 11).

Clause 8.—Section 22 has been interpreted to mean that the Board can delegate its powers to individual members but not to a committee of members. The section is being amended to enable delegation being made to such committees as well.

Clause 9.—A new sub-section is being added to section 23 to provide that in addition to the secretary any other officer or servant of the Board authorised for the purpose by the Board would be competent to issue certified copies of the records of the Board.

Clause 10.—Section 32 of the Act is being amended to make it clear that mutawallis should maintain regular accounts.

Clause 11.—Under proposed section 36A which is modelled on similar provisions in certain enactments relating to public trusts, transfers of wakf property by way of sale, gift, exchange or mortgage

as also transfers of such property by way of lease for a period exceeding three years in the case of agricultural land and one year in the case of non-agricultural land or building will be invalid, if such transfers have been effected without the previous sanction of the Board.

In order to effectively check unscrupulous mutawallis from alienating wakf properties in contravention of the law and to protect the interests of wakfs, a special provision is made in new section 36B to the effect that where a mutawalli alienates wakf property entered as such in the register of wakfs without the previous sanction of the Board as required by section 36A, the Board can recover possession of such property by sending a requisition to the Collector. A provision has also been made for appeal to the district court by any person aggrieved by the order of the Collector.

Clause 12.—The deletion of clause (g) of sub-section (1) of section 41 is consequential to the amendment proposed to section 43 so as to provide for removal of a mutawalli who fails, without reasonable excuse, for two consecutive years to pay the contribution under section 46.

Clause 13.—The scope of sub-section (1) of section 43 is being enlarged to specify certain additional grounds for removal of mutawallis.

Sub-section (2) of section 43 is being amended to provide that the Board can supersede any committee appointed by any person or authority other than a court of law, if the committee fails to discharge its functions properly.

To avoid injustice, a new sub-section is being added to section 43 giving a right of appeal to any mutawalli aggrieved by an order of removal under sub-section (2) of that section or under the new grounds proposed to be incorporated in sub-section (1).

Clause 14.—Proposed section 43A is intended to enable the Board to assume direct management of a wakf for a period or periods not exceeding five years in the aggregate where no suitable person is available for appointment as mutawalli thereof.

Clause 15.—Sub-section (1) of section 45 is being recast, so as to make the intention clear.

Clause 16.—To cover the contribution payable by Boards to the Central Wakf Council under proposed section 8B (*vide* clause 4), the maximum limit of contribution payable by a mutawalli under section

46 is being raised from 5 to 6% of the net annual income of the property of the wakf situate in the State.

Clause 17.—The amendment by this clause is self-explanatory.

Clause 18.—Section 54 is being omitted as unnecessary.

Clause 19.—Section 55 has been interpreted by the Kerala High Court to mean that a person desiring to institute a suit under the provisions of any of the Acts mentioned in the section has to obtain in addition to the consent of the Board the consent of the authorities specified under the provisions of those Acts. This was not the original intention. Accordingly, the section has been recast to bring out the real intention.

Clause 20.—Sub-section (1) of section 62 is being recast to make the intention clear.

Clause 21.—The definition of wakf under section 3(1) requires that the dedication must be made by a person professing Islam. It does not cover endowments made by non-Muslims for the support of Muslim institutions like Dargahs, etc. In Madras, this difficulty has been got over by a local amendment to the Act. As similar endowments exist in other States also, new section 66C is being inserted to bring such endowments within the purview of the Act.

Clause 22.—Clause (h) of section 67(2) provides that the State Government can frame rules prescribing the form and time of submission of budget of the Board and its approval by the State Government. The approval of the budget by the State Government is not consistent with the scheme of the Act and creates difficulty in actual practice. It is not even necessary as no Government money is involved. The words “and approved by the State Government” are, therefore, being omitted.

Clause 23.—Under clause (2) of section 69(1) of the Act, only section 5 of the Religious Endowments Act, 1863 has been made inapplicable to wakfs. The section is being amended to make the Religious Endowments Act, 1863 in its entirety inapplicable to wakfs. This is necessary as a Committee set up under the 1863 Act exercises almost the same functions as a Board does under the Wakf Act. Further, lacking the finances and resources of the Board, such Committees cannot be as effective as the Boards.

Clause 24.—A new section 70 has been inserted to provide for removal of difficulties in the implementation of the provisions of the Act.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 4 of the Bill which inserts a new Chapter IIA provides for the establishment of a Central Wakf Council. New section 8D forming part of this Chapter empowers the Central Government to make rules for carrying out the purposes of this Chapter. The matters in respect of which such rules may be made relate *inter alia* to the term of office of, the procedure to be followed in the discharge of their functions by, and the manner of filling casual vacancies among, the members of the Central Wakf Council.

Sub-section (6) of new section 36B (*vide* clause 11) empowers the State Government to make rules for the guidance of Collectors required under that section to obtain possession of certain wakf properties.

The matters in respect of which delegation of legislative power has been provided for are thus matters of procedure, form or detail and as such the delegation is of a normal character.

M. N. KAUL,
Secretary.

